

Edward A. Steinberg, Esq.
LEAV & STEINBERG, LLP
75 Broad Street, Suite 1601
New York, New York 10004
Tel. No.: (212) 766-5222
Fax No.: (212) 693-2377
Email: eas@lstriallaw.com

Attorneys for Plaintiff- SONJI M. ASTORGA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SONJI M. ASTORGA,

Plaintiff,

-against-

ALLSTATE OIL RECOVERY, CO. and
RICHARD J. WOODHAM,

Defendants.
-----X

TO THE HONORABLE SARAH NETBURN
UNITED STATES MAGISTRATE JUDGE:

DOCKET No.: 16-cv-5068

**RULE 56.1 STATEMENT
OF UNCOTNESTED
MATERIAL FACTS**

The plaintiff SONJI M. ASTORGA (“ASTORGA” and/or “Plaintiff”), by and through her attorney Edward A. Steinberg, Esq., of LEAV & STEINBERG, LLP, hereby submits the following statement pursuant to Rule 56.1 of the rules of the United States District Court for the Southern District of New York, together with the supporting exhibits annexed to the within motion:

1. On August 24, 2015, ASTORGA was the operator of a Honda four-door sedan registered in the State of New York bearing license plate number GPW3848 (*See, Exhibit A-¶¶14,15 Complaint*)

2. On August 24, 2015, the defendant RICHARD J. WOODHAM (“WOODHAM”) was the operator of a truck registered in the State of New Jersey bearing license plate number AM384H (*See, Exhibit B-¶¶22 Answer*)

3. On August 24, 2015, the defendant ALLSTATE OIL RECOVERY, CO. was the owner of both the truck registered in the State of New Jersey bearing license plate number AM384H and container attached to the truck. (*See, Exhibit B-¶¶16, 17 Answer / See, Exhibit E-Woodham, e.b.t. transcript, pg. 17, lns. 4-9*)

4. On August 24, 2015, WOODHAM was operating the truck in the normal course and scope of his employment with defendant ALLSTATE OIL RECOVERY, CO.. (*See, Exhibit E-Woodham, e.b.t. transcript, pg. 12, ln. 17; pg. 13, ln. 16*).

5. The accident between the two vehicles took place on Route 303 at or near its intersection with East Erie Street in New York. (*See, Exhibit D-Astorga, e.b.t. transcript, pg. 24, lns. 10-16; pg. 27, lns. 14-15 / See, Exhibit E-Woodham, e.b.t. transcript, pg. 27, lns. 16-24; pg. 28, ln. 3*)

6. Both vehicles were traveling northbound on Route 303 prior to the collision. (*See, Exhibit D-Astorga, e.b.t. transcript, pg. 24, ln. 23 / See, Exhibit E-Woodham, e.b.t. transcript, pg. 24, ln. 24*).

7. The weather was clear, and the roadways were dry at the location of the accident. (*See, Exhibit D-Astorga, e.b.t. transcript, pg. 29, lns. 17-18 / See, Exhibit E-Woodham, e.b.t. transcript, pg. 14, ln. 20--25*)

8. At the location of the accident, there was ongoing construction to the center median on Route 303 at or near its intersection with East Erie Street. (*See, Exhibit D-Astorga,*

e.b.t. transcript, pg. 26, lns. 4-7 / *See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 29, lns. 15-16; pg. 30, lns. 13-20)

9. At the location of the accident, the right lane on northbound Route 303 was closed due to ongoing construction to the center median on Route 303 at or near its intersection with East Erie Street. (*See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 29, lns. 3-11)

10. There was a traffic light governing vehicular traffic on northbound Route 303 at or near its intersection with East Erie Street. (*See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 34, ln. 22).

11. There was heavy traffic on northbound Route 303 at or near its intersection with East Erie Street. (*See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 36, ln. 16-19)

12. There was stop-and-go traffic on northbound Route 303 at or near its intersection with East Erie Street. (*See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 45, lns. 16-17)

13. ASTORGA's vehicle was traveling immediately in front of WOODHAM's truck just before the collision. (*See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 42, ln. 7; pg. 56, ln. 7).

14. ASTORGA's vehicle was the first vehicle at the traffic light on northbound Route 303 at or near its intersection with East Erie Street. (*See*, **Exhibit D**-Astorga, e.b.t. transcript, pg. 28, ln. 4 / *See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 56, lns. 11-14)

15. At the time of the crash, the brake lights were activated on ASTORGA's vehicle. (*See*, **Exhibit E**-Woodham, e.b.t. transcript, pg. 46, lns. 4-7)

16. ASTORGA's vehicle was struck in the rear by defendants' truck. (*See*, **Exhibit D**-Astorga, e.b.t. transcript, pg. 26, ln. 16; pg. 33, ln. 11)

17. The front of defendants' truck struck the center rear of ASTORGA's vehicle. (See, **Exhibit D**-Astorga, e.b.t. transcript, pg. 26, ln. 21 / See, **Exhibit E**-Woodham, e.b.t. transcript, pg. 44, lns. 4-10) / (Woodham, e.b.t. transcript, pg. 44, ln. 7)
18. The front bumper of defendants' truck was damaged, and hanging off of the truck after the impact. (See, **Exhibit D**-Astorga, e.b.t. transcript, pg. 64, lns. 12-21 / See, **Exhibit E**-Woodham, e.b.t. transcript, pg. 47, lns. 24-25)
19. The rear bumper and truck area of ASTORGA's vehicle were crushed and pushed inward after the impact. (See, **Exhibit E**-Woodham, e.b.t. transcript, pg. 48, lns. 6-7 / See, **Exhibit G**)
20. WOODHAM did not honk his horn at any time prior to the collision. (See, **Exhibit E**-Woodham, e.b.t. transcript, pg. 45, ln. 5).
21. WOODHAM did not swerve his vehicle to the right of left at any time prior to the collision. (See, **Exhibit E**-Woodham, e.b.t. transcript, pg. 45, ln. 8).
22. The truck was moving ("in the process of slowing down") at the time it truck the rear of ASTORGA's vehicle. (See, **Exhibit E**-Woodham, e.b.t. transcript, pg. 45, ln. 13).

Dated: New York, New York
December 13, 2017



EDWARD A. STEINBERG, ESQ.
LEAV & STEINBERG, LLP